

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

KYRIAKOS DALAMAGKAS

Plaintiff,

V.

THE UNIVERSITY OF TEXAS HEALTH
SCIENCE CENTER AT HOUSTON,
BOARD OF REGENTS OF THE
UNIVERSITY OF TEXAS SYSTEMS;
THE UNIVERSITY OF TEXAS SYSTEM
MEDICAL FOUNDATION; JOEL E.
FRONTERA, M.D.; MARGARET
UTHMAN, M.D.; DEANA K. MOYLAN,

Defendants.

Civil Action No. 4:19-cv-02262

PARTIES' JOINT NOTICE

The Parties respectfully file this Joint Notice to explain the current posture of the litigation and the Parties' proposal for next steps in this matter.

On September 3, 2019, the Court held a telephonic hearing on Plaintiff's Application for Temporary Restraining Order (Doc. 16). The Court denied the application, *see* Minute Entry (Sept. 4, 2019), and set a hearing on the issue of accommodations for October 4, 2019 at 10:00 a.m. *See id.*

In the following weeks, the parties engaged in expedited discovery. Plaintiff took the deposition of Defendant Joel Frontera, M.D., and Defendants deposed Plaintiff and his partner, Madgalini Tsintou. The parties also exchanged thousands of documents in discovery.

On October 1, 2019, undersigned counsel for Defendants sent counsel for Plaintiff the below email, which included the following representations:

- 1) UTHealth plans to extend Dr. Dalamagkas a contract as a PGY-3 from November 1, 2019, through June 30, 2020, contingent on him meeting program requirements (i.e., he is still subject to the Residency Handbook).
- 2) As of November 1, 2019, Dr. Dalamagkas's current probation will be complete, and [UTHealth] will report this fact to the Texas Medical Board along with his contract extension as a PGY-3 through June 2020. This same information will be reported, as needed, to the ECFMG for immigration purposes.
- 3) [UTHealth] will continue to engage in the interactive process to reasonably accommodate Dr. Dalamagkas. Options that UTHealth is committed to actively exploring include hiring a new Medical Assistant or hiring a qualified scribe.
- 4) [UTHealth] do[es] not believe a Physician Assistant or a Physician Assistant student is a reasonable accommodation under these circumstances.

UTHealth also noted that it is "open to discussing settlement," but only outside of the context of hearings on immediate injunctive relief.

Counsel for Plaintiff notified counsel for Defendants that she wished to cancel the October 4 hearing and "not to refile any requests for PI relief barring any unusual circumstances (ex sudden decision to dismiss him or remove assistant altogether)."¹ Counsel for Plaintiff then contacted the Court's case manager to request that the hearing be cancelled.

The Parties' current deadlines are as follows: Plaintiff must file an amended complaint by October 11, 2019, and Defendants must file a responsive pleading to Plaintiff's original complaint (Doc. 1), should no amended complaint be filed, by October 18, 2019. The Parties propose that Plaintiff's deadline to file an amended complaint be extended for a period of thirty (30) days, and that Defendants' deadline to file a responsive pleading be extended for a period of forty-five (45) days, so that the Parties can focus on settlement discussions. The parties agree to promptly contact Judge Palermo's chambers to determine her availability to assist with the settlement process, with the goal of reaching a preliminary agreement (subject to final approvals) by November 15, 2019.

¹ Counsel for Plaintiff also represented that she will confer with counsel for Defendants before filing any request for injunctive relief. The parties have also conferred and agree that a potential offer for Plaintiff to join a fellowship program alone does not constitute "unusual circumstances" justifying a motion for injunctive relief.

A proposed order reflecting this relief is filed with this joint notice.

Date: October 2, 2019

Respectfully submitted.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has served through the Court's CM/ECF Notification System on October 2, 2019, to the following:

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